

Office of the Secretary of Defense

§ 235.6

sexually explicit materials on property under the jurisdiction of the Department of Defense or by members of the Armed Forces or DoD civilian officers or employees, acting in their official capacities.

§ 235.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to as the “DoD Components”).

(b) Shall not confer rights on any person.

§ 235.3 Definitions.

For the purpose of this part, the following definitions apply:

Dominant theme. A theme of any material that is superior in power, influence, and importance to all other themes in the material combined.

Lascivious. Lewd and intended or designed to elicit a sexual response.

Material. An audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium.

Property under the jurisdiction of the Department of Defense. Commissaries, facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps Exchanges, and ship stores.

Sexually explicit material. Material, the dominant theme of which is the depiction or description of nudity, including sexual or excretory activities or organs, in a lascivious way.

§ 235.4 Policy.

It is DoD policy that:

(a) No sexually explicit material may be offered for sale or rental on property under the DoD jurisdiction, and no member of the Armed Forces or DoD civilian officer or employee, acting in his or her official capacity, shall offer

for sale or rental any sexually explicit material.

(b) Material shall not be deemed sexually explicit because of any message or point of view expressed therein.

§ 235.5 Responsibilities.

(a) The Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD((P&R))), under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Monitor and ensure compliance with this part.

(2) Establish a Resale Activities Board of Review (the “Board”) and approve senior representatives from the Army and Air Force Exchange Service, the Navy Exchange Service Command, and the Marine Corps Exchange Service; and approve a senior representative from each of the Military Departments, if designated by the Military Department concerned, to serve as board members on the Resale Activities Board.

(3) Appoint a Chair of the Board.

(4) Monitor the activities of the Board and ensure that the Board discharges its responsibilities as set forth in § 235.6.

(b) The Secretaries of the Military Departments shall ensure that their respective component DoD resale activities comply with this Part and may designate a senior representative to serve on the Board.

(c) The Secretary of the Army and the Secretary of the Air Force shall each appoint one senior representative from the Army and Air Force Exchange Service to serve on the Board.

(d) The Secretary of the Navy shall appoint a senior representative from the Navy Exchange Service Command and a senior representative from the Marine Corps Exchange Service to serve on the Board.

§ 235.6 Procedures.

(a) The Board shall periodically review material offered or to be offered for sale or rental on property under DoD jurisdiction and determine whether any such material is sexually explicit in accordance with this part.

(b) If the Board determines that any material offered for sale or rental on

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property under DoD jurisdiction is sexually explicit, such material shall be withdrawn from all retail outlets where it is sold or rented and returned to distributors or suppliers, and shall not be purchased absent further action by the Board.

(c) The Board shall convene as necessary to determine whether any material offered or to be offered for sale or rental on property under DoD jurisdiction is sexually explicit. The Board members shall, to the extent practicable, maintain and update relevant information about material offered or to be offered for sale or rental on property under DoD jurisdiction.

(d) If any purchasing agent or manager of a retail outlet has reason to believe that material offered or to be offered for sale or rental on property under DoD jurisdiction may be sexually explicit as defined herein, and such material is not addressed by the Board's guidance issued pursuant to paragraph (e) of this section, he or she shall request a determination from the Board about such material prior to purchase or as soon as possible.

(e) At the conclusion of each review and, as necessary, the Board shall issue guidance to purchasing agents and managers of retail outlets about the purchase, withdrawal, and return of sexually explicit material. The Board may also provide guidance to purchasing agents and managers of retail outlets about material that it has determined is not sexually explicit. Purchasing agents and managers of retail outlets shall continue to follow their usual purchasing and stocking practices unless instructed otherwise by the Board.

(f) Material which has been determined by the Board to be sexually explicit may be submitted for reconsideration every 5 years. If substantive changes in the publication standards occur earlier, the purchasing agent or manager of a retail outlet under DoD jurisdiction may request a review.

§ 235.7 Information requirements.

The Chair of the Board shall submit to the PDUSD(P&R) an annual report documenting the activities, decisions, and membership of the Board. Negative reports are required. The annual report

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shall be due on October 1st of each year and is not subject to the licensing internal information requirements of DoD 8910.1–M.²

PART 236—DEPARTMENT OF DEFENSE (DoD)—DEFENSE INDUSTRIAL BASE (DIB) CYBER SECURITY (CS) ACTIVITIES

Sec.

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236.7 DoD–DIB CS information sharing program requirements.

AUTHORITY: 10 U.S.C. 391; 10 U.S.C. 2224; 44 U.S.C. 3506; 44 U.S.C. 3544; and Section 941, Publ. L. 112–239, 126 Stat. 1632.

SOURCE: 80 FR 59584, Oct. 2, 2015, unless otherwise noted.

§ 236.1 Purpose.

Cyber threats to contractor unclassified information systems represent an unacceptable risk of compromise of DoD information and pose an imminent threat to U.S. national security and economic security interests. This part requires all DoD contractors to rapidly report cyber incidents involving covered defense information on their covered contractor information systems or cyber incidents affecting the contractor's ability to provide operationally critical support. The part also modifies the eligibility criteria to permit greater participation in the voluntary DoD–DIB CS information sharing program in which DoD provides cyber threat information and cybersecurity best practices to DIB participants. The DoD–DIB CS information sharing program enhances and supplements DIB participants' capabilities to safeguard DoD information that resides on, or transits, DIB unclassified information systems.

§ 236.2 Definitions.

As used in this part:

²Copies may be obtained at <http://www.dtic.mil/whs/directives/>.